

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

Michelle Francis

DEFENDANTS

Telecare Corporation

(b) County of Residence of First Listed Plaintiff Contra Costa
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Alameda
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael C. Cohen, State Bar No. 65487

Law Offices of Michael C. Cohen

1814 Franklin Street, Suite 900

Oakland, California 94612 (510) 832-6436

Attorneys (If Known)

Jeffrey L. Adams, State Bar No. 148393

Littler Mendelson, P.C.

1255 Treat Boulevard, Suite 600

Walnut Creek, California 94597 (925) 932-2468

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State. | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury — Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA(1395ff)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
			<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input checked="" type="checkbox"/> 442 Employment	Habeas Corpus:	IMMIGRATION	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title VII of the Civil Rights Act of 1964, As Amended

Brief description of cause:

Race discrimination in employment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

May 14, 2008

SIGNATURE OF ATTORNEY OF RECORD

JEFFREY L. ADAMS, Bar No. 148393
LITTLER MENDELSON
A Professional Corporation
1255 Treat Blvd., Suite 600
Walnut Creek, CA 94597
Telephone: (925) 932-2468
Facsimile: (925) 946-9809

E-filing

Attorneys for Defendant
TELECARE CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CV 08

2468

MICHELLE FRANCIS,
Plaintiff,

v.

TELECARE CORPORATION,
DOES 1 through 10,
Defendants.

No. _____

BZ

NOTICE OF REMOVAL OF CIVIL
ACTION UNDER 28 U.S.C. § 1441(b)
(FEDERAL QUESTION)

TO THE CLERK FOR THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Defendant Telecare Corporation ("Defendant") hereby
removes the above-entitled action from the Superior Court of the State of California, County of
Alameda, to the United States District Court for the Northern District of California on the grounds
that this Court has original jurisdiction under 28 U.S.C. § 1331 (Federal Question), and this action is
one that may be removed to this Court by Defendant pursuant to 28 U.S.C. §§ 1441(b) and 1446.

In support of this Notice of Removal of Civil Action, Defendant states:

1. On or about January 9, 2008, Plaintiff Michelle Francis ("Plaintiff") filed her
Civil Complaint For Violation of Title VII of the Civil Rights Act of 1964, As Amended in the
Superior Court of the State of California, County of Alameda entitled *Michelle Francis, Plaintiff, v.*

1 *Telecare Corporation, DOES 1 to 10, Defendants*, Case No. RG 08365014 (“Complaint”).
2 Plaintiff’s Complaint alleges, *inter alia*, that Defendant violated the Title VII of the Civil Rights Act
3 of 1964 (“Title VII”), set forth in 42 U.S.C. § 2000(e) *et seq.*

4 2. The first date upon which Defendant received a copy of the Complaint was
5 April 14, 2008 when Defendant was served with a Summons and a copy of the Complaint. A true
6 and correct copy of all process, pleadings, and orders served upon Defendant in the State court
7 action is being filed with this Notice, as required by 28 U.S.C. § 1446(a), and are attached as
8 **Exhibit 1.**

9 3. Defendant has filed this Notice of Removal within thirty (30) days after
10 receipt of the initial pleading setting forth a removable claim and it is timely filed under 28 U.S.C. §
11 1446(b).

12 4. This Court has original jurisdiction of this case because the lawsuit arises
13 under federal law. Plaintiff’s Complaint alleges, *inter alia*, causes of action under Title VII of the
14 Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e *et seq.* Specifically, Plaintiff alleges
15 discrimination on the basis of race and other violations under Title VII. Because these claims arise
16 under the laws of the United States, this Court has original jurisdiction under 28 U.S.C. § 1331 and
17 removal jurisdiction under 28 U.S.C. § 1441(b).

18 5. In her Complaint, Plaintiff also asserts a state law claim for discrimination on
19 the basis of race and other violations under the California Fair Employment and Housing Act
20 (“FEHA”), California Government Code § 12940, *et seq.* These claims fall within the Court’s
21 supplemental jurisdiction. Where a federal court has subject matter jurisdiction over federal
22 question claims, it may assert supplemental jurisdiction over any other state claim arising out of the
23 same operative facts. *See* 28 U.S.C. § 1367(a). In the present case, both the state and federal claims
24 derive from a single set of operative facts. Indeed, by filing a single action, Plaintiff has
25 demonstrated an expectation that all of her claims will be considered in a single lawsuit.
26 Consequently, because Plaintiff’s State law claims are sufficiently intertwined with their federal
27 claim in a single proceeding, this Court has supplemental jurisdiction over Plaintiff’s State law
28 claims.

6. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as the district embracing the place where the State action is pending.

7. The Notice to Adverse Party of Removal to Federal Court was filed in state court and served simultaneously herewith, in accordance with 28 U.S.C. §1446(d), and a copy is attached as **Exhibit 2**.

8. The Notice to State Court of Removal of Civil Action to Federal Court was filed in state court and served simultaneously herewith, in accordance with 28 U.S.C. § 1446(d), and a copy is attached as **Exhibit 3**.

RESPECTFULLY SUBMITTED this 14th day of May, 2008.

JEFFREY WADAMS (Bar No. 148393)
LITTLER MENDELSON
1255 Treat Blvd., Suite 600
Walnut Creek, CA 94597
Tel.: (925) 932-2468
Fax: (925) 946-9809
Attorneys for Defendant, Telecare Corporation

Firmwide:85177955.1 008313.1143

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO) :**

TELECARE CORPORATION, DOES 1 to 10

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE) :**
MICHELLE FRANCIS

FILED
ALAMEDA COUNTY

JAN 09 2008

CLERK OF THE SUPERIOR COURT
By KmL Chilton Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

Alameda County Superior Court
1225 Fallon Street
Oakland, CA 94612

CASE NUMBER:
(Número del Caso)

08365014

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Michael C. Cohen, Esq. 1814 Franklin Street, Suite 900
Oakland, CA 94612 510-832-6436

DATE: JAN 09 2008 Clerk, by KmL Chilton, Deputy
(Fecha) PAT S. SWEETEN (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

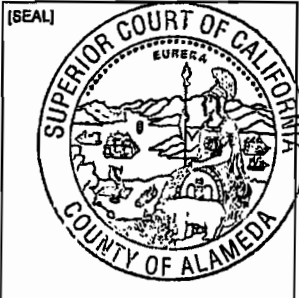
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify) :

3. ☐ on behalf of (specify) :

- under:
- ☐ CCP 416.10 (corporation)
 - ☐ CCP 416.20 (defunct corporation)
 - ☐ CCP 416.40 (association or partnership)
 - ☐ other (specify) :

- ☐ CCP 416.60 (minor)
- ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date) :





Michael C. Cohen, Esq., Bar No. 65487
LAW OFFICES OF MICHAEL C. COHEN
1814 Franklin Street, Suite 900
Oakland, CA 94612
(510) 832-6436

Attorneys for Plaintiff

KmB Chilton
Deputy

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

MICHELLE FRANCIS,

Case No.

RG 08365014

Plaintiff,

COMPLAINT FOR VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS
ACT OF 1964, AS AMENDED

vs.

TELECARE CORPORATION,
DOES 1 to 10,

Defendants.

GENERAL ALLEGATIONS

Plaintiff, Michelle Francis, alleges:

1. Plaintiff Michelle Francis (hereinafter referred to as "Plaintiff") is an adult African American female, who at all relevant times resides in the county of Contra Costa, state of California.

2. Defendant Telecare Corporation, (hereinafter referred to as Defendant) at all times mentioned herein mentioned is a corporation organized and existing in the state of California and doing business in Alameda county, California.

3. Plaintiff is ignorant of the true names and capacities

Complaint

1 of the defendants sued herein as DOES 1 to 10, inclusive and
2 therefore sues these defendants by such fictitious names.
3 Plaintiff will amend this complaint to allege their true names
4 and capacities when ascertained. Plaintiff is informed and
5 believes and thereon alleges that each of the fictitiously named
6 defendants is responsible as hereinafter shown for the
7 occurrences and injuries alleged in this complaint.

8 4. Plaintiff is informed and believes, and thereon
9 alleges, that at all times herein mentioned, each DOE, defendant
10 named herein was the agent and/or employee of the remaining DOE
11 defendants, and in doing the things hereinafter alleged, was
12 acting within the course and scope of such agency and/or
13 employment.

14 5. The unlawful employment practices complained of herein
15 occurred in Alameda County, state of California.

16 6. Plaintiff is a person protected by Title VII of the
17 Civil Rights Acts, as amended in 1964, in that she is a member of
18 a racial minority group, (African American).

19 7. Defendant is an employer, which at all relevant times
20 did business in Alameda county, State of California, and is an
21 entity subject to suit under Title VII of the Civil Rights Act,
22 as amended in 1964, in that defendant is an employer who at all
23 relevant times regularly employed more than fifty (50) people.

24 8. Plaintiff, started working for Defendant in November
25 2000. She was hired as a permanent employee in July 2001, as a
26 "help desk operator". Approximately August 2005, her title
27 changed to "information systems coordinator". She worked for

1 defendant as an "information systems coordinator from
2 approximately August 2005, until she voluntarily terminated her
3 employment on or about May 18, 2006.

4 9. Plaintiff terminated her employment with Telecare
5 Corporation (employer) on or about May 18, 2006. She requested
6 employer to distribute her Employee Stock Option Plan (hereafter
7 ESOP) money in December 2006, in March 2007 and in April 2007.
8 In March and April the employer advised the claimant that it
9 would be sending her ESOP packet and that the claimant would
10 receive her ESOP packet by the end of May or early June 2007 and
11 that she should have her distribution by the end of June 2007.

12 10. On May 30, and on or about June 4, 2007, the claimant
13 complained to the Department of Labor that the employer was
14 unfairly refusing to distribute her ESOP money. The Department
15 of Labor notified the employer of the claimant's complaint.
16 Thereafter, the employer sent to the Department of Labor a copy
17 of "Distribution Policy: Telecare Corporation Employee Stock
18 ownership Plan for distributions that occur on or after July 1,
19 2005" as well as the "Telecare Employee Stock Ownership Plan
20 summary Plan Description". Telecare changed its distribution
21 plan policy after claimant terminated her employment with the
22 employer.

23 11. The plaintiff has not received her ESOP packet or her
24 ESOP money as of today. Other non African American employees
25 whose employment terminated with the employer after plaintiff's
26 employment was terminated, have received their ESOP distribution
27 before their plan year end date. The employer applied its

1 distribution plan policy in a discriminatory manner regarding the
2 claimant because of the claimant's race and in retaliation
3 against the plaintiff for the plaintiff complaining to the
4 Department of Labor to make the claimant wait an unreasonably
5 long period time to receive her ESOP distribution. The employer
6 was motivated by the plaintiff's race and or retaliation against
7 the claimant for the claimant filing a complaint against the
8 unlawful discrimination.

9 12. Plaintiff filed her lawsuit herein within ninety (90)
10 days of receipt of the Right To Sue Letter from EEOC.

11 13. Defendant's conduct alleged herein violates Title VII
12 of the 1964 Civil Rights Act, as amended.

13 14. Plaintiff exhausted her administrative remedy
14 before filing his lawsuit herein.

15 15. Plaintiff, on or about October 19, 2007, filed a
16 complaint with Equal Employment Opportunity Commission,
17 (hereinafter referred to as "EEOC") which is designated by EEOC
18 as complaint #555-2008-00042. A copy of the EEOC complaint is
19 marked Exhibit A, attached hereto and incorporated herein by this
20 reference.

21 16. On or about October 19, 2007, EEOC issued a Right To
22 Sue Letter to plaintiff. A copy of the EEOC Right To Sue Letter
23 is marked Exhibit B, attached hereto and incorporated herein by
24 this reference.

25 17. Plaintiff filed her complaint herein within ninety days
26 of receipt of the EEOC Right To Sue Letter.

27 18. Defendant, despite knowledge and or adequate

1 opportunity to learn of the misconduct of its agents and or
2 employees, retained said defendants, agents and or employees in
3 its service, and thereafter adopted, approved and ratified the
4 acts, omissions and misconduct of said employees.

5 19. The conduct of defendants, and each of them, alleged
6 herein was willful, wanton, malicious, and oppressive, in that
7 they knew or should have known that their conduct was
8 unreasonable and illegal. Furthermore, defendants' acts were
9 carried out in willful and conscious disregard of plaintiff's
10 rights and well-being such as to constitute malicious, despicable
11 conduct within the meaning of California Civil Code §3294,
12 entitling plaintiff to punitive damages in an amount appropriate
13 to punish or make an example of defendants.

14 20. Defendant's conduct proximately caused plaintiff to
15 retain an attorney to represent her, because of the acts of
16 defendants, alleged herein. The amount of attorney fees has not
17 been fully determined at this time; the amount of attorney fees
18 will be shown according to proof at the time of trial.

19 21. As a proximate cause of Defendant's conduct, Plaintiff
20 has suffered emotional distress, worry, anxiety, loss of income,
21 incurred medical expenses, and incurred attorney fees, and is
22 reasonably certain to suffer emotional distress, lose income,
23 incur medical expenses and attorney fees in the future.

24 **FIRST CAUSE OF ACTION**

25 **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT**
26 **OF 1964, AS AMENDED**

27 22. Plaintiff realleges and incorporates by reference
28

1 Paragraphs 1 through 21, of the Complaint as though fully set
2 forth at length herein.

3 23. Defendants, and each of them, violated Plaintiff's
4 legal rights by doing the acts complained of herein; said acts
5 include but are not limited to:

6 a. Discriminating against plaintiff in the manner in which
7 they distribute plaintiff's employee stock option benefits
8 retirement, based on plaintiff's race;

9 b. Retaliating against plaintiff for complaining to
10 Department of Labor about defendant's alleged unfair labor
11 practices;

12 c. Failure to take immediate and appropriate corrective
13 action to remedy the unlawful employment discrimination and or
14 harassment and/or retaliation;

15 d. Failure to take all reasonable steps necessary to
16 prevent discrimination and or harassment and or retaliation from
17 occurring on the job;

18 24. In doing each and all of the acts alleged herein, said
19 defendants, and each of them, intentionally, willfully, and
20 without justification, attempted to and did deprive Plaintiff of
21 her rights, privileges and immunities secured to her by the
22 Constitution and laws of the United States of America,
23 particularly her right to be free from discrimination in
24 employment based on her race and or in retaliation for
25 complaining of discrimination, in violation of Title VII of the
26 Civil Rights Act of 1964, as amended.

27 ////

28 Complaint

1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF CALIFORNIA GOVERNMENT**
3 **CODE SECTION 12940 ET SEQ.**

4 25. Plaintiff realleges and incorporates by reference
5 Paragraphs 1 through 11, 18 through 23 of the Complaint as though
6 fully set forth at length herein.

7 26. In doing each and all of the acts alleged herein, said
8 defendants, and each of them, intentionally, willfully, and
9 without justification, attempted to and did deprive Plaintiff of
10 her rights, privileges and immunities secured to her by the
11 Constitution and laws of the State of California, particularly
12 her right to be free from discrimination in employment based on
13 her race and or in retaliation for complaining of discrimination,
14 in violation California Government Code section 12940, et seq.

15 27. Plaintiff, on or about October 19, 2007, filed a
16 complaint with the Department of Fair Employment and Housing,
17 (hereinafter referred to as "DFEH") which is designated by EEOC
18 as charge 555-2008-00042. A copy of EEOC charge 555-2008-00042
19 is marked Exhibit A, attached hereto and incorporated herein by
20 this reference.

21 28. On or about October 19, 2007, DFEH issued a Right To
22 Sue Letter to plaintiff. A copy of the DFEH Right To Sue Letter
23 is marked Exhibit C, attached hereto and incorporated herein by
24 this reference.

25 29. Plaintiff filed her lawsuit within one year from the
26 date on which she received her Right To Sue Letter from the DFEH.

27 ////

PRAYER

WHEREFORE, Plaintiff prays for judgement against all Defendants, and each of them as follows:

1. Compensatory and special damages, including damages for mental and emotional distress, in an amount to be determined at the time of trial;

2. Special damages including Lost income, past and future; medical expenses, past and future;

3. Punitive and exemplary damages in an amount appropriate to punish and/or make an example of the Defendants sued individually herein to be determined at trial;

4. Reasonable attorney fees;

5. Costs of suit incurred herein;


6. Prejudgment interest at the legal rate on the amount of Plaintiff's lost wages and employment benefits; and

7. Such other and further relief as the Court deems just and proper.

Dated: January 7, 2008

LAW OFFICES OF MICHAEL C. COHEN

By:


MICHAEL C. COHEN,
Attorney for Plaintiff

EEOC CHARGE # 555-2008-00042

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION COMPLAINT &
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING COMPLAINT
AGAINST TELECARE CORPORATION**

COMPLAINANT:
Michelle Francis
2255 Old Creek Circle
Pittsburg, CA 94565
510-501-7911
SS# 564-53-2103

RECEIVED
OCT 19 2007
EEOC - OLO

ADDRESS WHERE NOTICES ARE TO BE SENT:

Michael C. Cohen
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, CA 94612
tele. NO. 510-832-6436

SUBJECT: Employment discrimination, harassment based on race and retaliation for claimant complaining to the Department of Labor about employer's unfair labor practices and discrimination in regarding the employer's administration of its employee stock ownership plan.

EMPLOYER:

Telecare Corporation
1080 Marina Village Parkway, Suite 100
Alameda, CA 94501-1078

JOB TITLE:

Information Systems Coordinator

**FACTS SUPPORTING CLAIM OF DISCRIMINATION/HARASSMENT BASED ON RACE
AND RETALIATION:**

Claimant terminated her employment with Telecare Corporation (employer) on or about May 18, 2006. She requested employer to distribute her Employee Stock Option Plan (hereafter ESOP) money in December 2006, in March 2007 and in April 2007. In March and April the employer advised the claimant that it would be sending her ESOP packet and that the claimant would receive her ESOP packet by the end of May or early June 2007 and that she should have her distribution by the end of June 2007.

EEOC CHARGE # 555-2008-00042

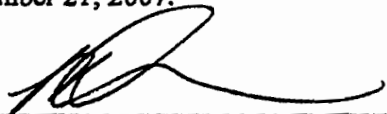
RECEIVED**OCT 19 2007****EEOC - OLO**

Michelle Francis
EEOC Complaint
September 21, 2007
Page 2

On May 30, and on or about June 4, 2007, the claimant complained to the Department of Labor that the employer was unfairly refusing to distribute her ESOP money. The Department of Labor notified the employer of the claimant's complaint. Thereafter, the employer sent to the Department of Labor a copy of "Distribution Policy: Telecare Corporation Employee Stock ownership Plan for distributions that occur on or after July 1, 2005" as well as the "Telecare Employee Stock Ownership Plan summary Plan Description". Telecare changed its distribution plan policy after claimant terminated her employment with the employer.

The claimant has not received her ESOP packet or her ESOP money as of today. Other non African American employees whose employment terminated with the employer after plaintiff's employment was terminated, have received their ESOP distribution before their plan year end date. The employer applied its distribution plan policy in a discriminatory manner regarding the claimant because of the claimant's race and in retaliation against the claimant for the claimant complaining to the Department of Labor to make the claimant wait an unreasonably long period time to receive her ESOP distribution. The employer was motivated by the claimant's race and or retaliation against the claimant for the claimant filing a complaint against the employer with the Department of Labor.

I declare under penalty of perjury, pursuant to the laws of the state of California and the United States of America, that the statements herein are true and correct and that this declaration was executed in Oakland, California on September 21, 2007.



Michelle Francis

EEOC Form 161-B (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Michelle Francis
2255 Old Creek Circle
Pittsburg, CA 94565

From: Oakland Local Office
1301 Clay Street
Suite 1170-N
Oakland, CA 94612



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

555-2008-00042

Jullan F. Melendres,
Investigator Support Asst

(510) 637-3242

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.



The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)


for Michelle L. Nardella,
Director

10/19/07
(Date Mailed)

C:

Chief Executive Officer
TELECARE CORPORATION
1080 Marina Village Pkwy., Ste 100
Alameda, CA 94501

STATE OF CALIFORNIA - State and Consumer Services Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

SEE ADDRESS CHECKED BELOW)



TY # (800) 700-2320

EEOC Number:

555-2008-00042

Case Name:

Michelle Francis v. Telecare Corp.

Date:

October 19, 2007

☐ 1001 Tower Way, Suite 250
H Bakersfield, CA 93309
(801) 395-2728

☐ 1320 E. Shaw Avenue, Suite 150
C Fresno, CA 93710
(559) 244-4760

☐ 611 West Sixth Street, Suite 1500
S/T Los Angeles, CA 90017
(213) 439-6789

☒ 1515 Clay Street, Suite 701
M Oakland, CA 94612
(510) 622-2941

☐ 2000 "O" Street, Suite 120
E Sacramento, CA 95814
(916) 445-5523

☐ 1350 Front Street, Suite 3005
D San Diego, CA 92101
(619) 645-2881

☐ San Francisco District Office
A 1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

☐ 111 North Market Street, Suite 810
3 San Jose, CA 95113
(408) 277-1277

☐ 2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4268

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

WANDA J. KIRBY
Chief Deputy Director

JEFFREY L. ADAMS, Bar No. 148393
LITTLER MENDELSON
A Professional Corporation
1255 Treat Blvd., Suite 600
Walnut Creek, CA 94597
Telephone: (925) 932-2468

Attorneys for Defendant
TELECARE CORPORATION

**ENDORSED
FILED
ALAMEDA COUNTY**

MAY 13 2008

CLERK OF THE SUPERIOR COURT
By S. Halcrombe

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

MICHELLE FRANCIS,

Plaintiff,

v.

TELECARE CORPORATION,
DOES 1 through 10,

Defendants.

Case No. RG 08365014

**DEFENDANT TELECare
CORPORATION'S ANSWER TO
PLAINTIFF'S COMPLAINT FOR
VIOLATION OF TITLE VII OF THE CIVIL
RIGHTS ACT OF 1964, AS AMENDED**

Defendant TELECare CORPORATION (hereinafter "Defendant"), hereby answers Plaintiff MICHELLE FRANCIS' (hereinafter "Plaintiff") Complaint For Violation of Title VII of the Civil Rights Act of 1964, As Amended. Defendant generally and specifically denies each and every allegation in Plaintiff's Complaint pursuant to Section 431.30(d) of the California Code of Civil Procedure and asserts the following affirmative defenses:

1. Plaintiff's Complaint and each purported cause of action therein, or both of them, fail to state facts sufficient to constitute a cause of action against Defendant.

2. The alleged claims for relief and each of them are barred in whole or in part by the applicable statutes of limitation found in California Government Code §§ 12960 and 12965 and in 42 U.S.C. § 2000e-5.

3. Plaintiff's Complaint is barred in whole or in part by reason of her failure to timely or otherwise exhaust her administrative remedies.

1 4. Any recovery by Plaintiff herein must be offset by the amount which Plaintiff did recover
2 or could have, through reasonable efforts, recovered in mitigation of her alleged injuries.

3 5. Plaintiff's Complaint is barred in whole or in part by Plaintiff's own unclean hands,
4 equitable and/or judicial estoppel and/or the waiver doctrine.

5 6. Each cause of action in the Complaint is barred to the extent authorized by law on account
6 of the privilege under Civil Code § 47(c).

7 7. All claims set forth in Plaintiff's Complaint which are not encompassed in Plaintiff's
8 complaints, if any, filed with the California Department of Fair Employment and Housing and the
9 Equal Employment Opportunity Commission are barred for failure to exhaust administrative
10 remedies with respect thereto.

11 8. To the extent Plaintiff filed this action after the time allotted to her in any notice of right
12 to sue provided to her by the Equal Employment Opportunity Commission, her claims in her First
13 Cause of Action are barred.

14 9. To the extent Plaintiff filed this action after the time allotted to her in any notice of right to
15 sue provided to her by the California Department of Fair Employment and Housing, her Second
16 Cause of Action is barred.

17 10. Defendant alleges that a reasonable opportunity for investigation and discovery may
18 reveal and, on that basis, allege that evidence acquired subsequent to Plaintiff's filing of the
19 Complaint bars and/or limits the amount of damages Plaintiff can recover on her claims, assuming
20 arguendo she is able to establish Defendant's liability.

21 11. Defendant does not presently know all facts respecting the conduct of Plaintiff
22 sufficient to state all affirmative defenses at this time. Defendant reserves the right to amend this
23 Answer should it later discovery facts demonstrating the existence of additional affirmative
24 defenses.

25 12. Defendant's actions about which Plaintiff complains were just, fair, privileged,
26 justified, non-discriminatory and for legitimate reasons.

27 13. Defendant alleges that any conduct by Defendant of which Plaintiff complains was
28 required by business necessity.

1 14. Defendant alleges that Plaintiff's claims are barred or Plaintiff's recovery of damages
2 must be reduced or denied under the doctrine of after-acquired evidence.

3 15. Plaintiff's claims are preempted in whole or in part by the Employee Retirement
4 Income Security Act, 29 U.S.C. § 1144(a) and /or 29 U.S.C. § 1132(a).

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE, Defendant prays for relief as follows:

8 1. That Plaintiff take nothing and that the Complaint be dismissed in its entirety with
9 prejudice;

10 2. That judgment be entered in Defendant's favor;

11 3. That Defendant be awarded its attorneys' fees and costs of suit herein (to the extent
12 permitted under applicable law); and

13 4. That Defendant be awarded such other, further relief as the Court deems just and
14 proper.

15 Dated: May 13, 2008

16
17 
18 JEFFREY L. ADAMS
19 LITTLER MENDELSON, A Professional Corporation

20 ATTORNEYS FOR DEFENDANT,
21 TELECARE CORPORATION
22
23
24
25
26
27
28

PROOF OF SERVICE BY MAIL

I am employed in Contra Costa County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Treat Towers, 1255 Treat Boulevard, Suite 600, Walnut Creek, California 94597. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On **May 13, 2008**, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**DEFENDANT TELECARE CORPORATION'S ANSWER TO PLAINTIFF'S
COMPLAINT FOR VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT
OF 1964, AS AMENDED**

in a sealed envelope, postage fully paid, addressed as follows:

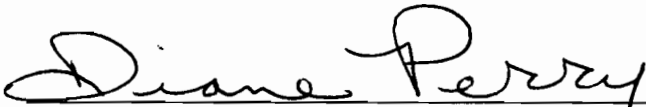
Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, CA 94612

(Attorney for Plaintiff)

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **May 13, 2008**, at Walnut Creek, California.


Diane Perry

1 JEFFREY L. ADAMS, Bar No. 148393
LITTLER MENDELSON
2 A Professional Corporation
1255 Treat Blvd., Suite 600
3 Walnut Creek, CA 94597
Telephone: (925) 932-2468

4 Attorneys for Defendant
5 TELECARE CORPORATION
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA

10 MICHELLE FRANCIS,
11 Plaintiff,

12 v.

13 TELECARE CORPORATION,
14 DOES 1 through 10,
15 Defendants.

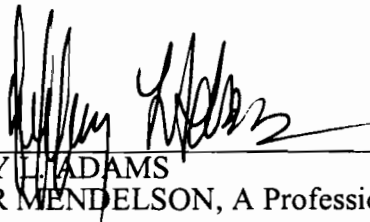
Case No. RG 08365014

**NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT**

16
17 TO PLAINTIFF MICHELLE FRANCIS AND HER ATTORNEYS OF RECORD:

18 PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
19 States District Court for the Northern District of California on May 14, 2008. A copy of the said
20 Notice of Removal is attached to this Notice, and is served and filed herewith.
21

22 Dated: May 14, 2008

23
24 
JEFFREY L. ADAMS
LITTLER MENDELSON, A Professional Corporation
25
26 ATTORNEYS FOR DEFENDANT,
TELECARE CORPORATION
27
28

PROOF OF SERVICE BY MAIL

I am employed in Contra Costa County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Treat Towers, 1255 Treat Boulevard, Suite 600, Walnut Creek, California 94597. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On **May 14, 2008**, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

NOTICE TO ADVERSE PARTY OF REMOVAL TO FEDERAL COURT

in a sealed envelope, postage fully paid, addressed as follows:

Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, CA 94612

(Attorney for Plaintiff)

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **May 14, 2008**, at Walnut Creek, California.


Diane Perry

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1 JEFFREY L. ADAMS, Bar No. 148393
LITTLER MENDELSON
2 A Professional Corporation
1255 Treat Blvd., Suite 600
3 Walnut Creek, CA 94597
Telephone: (925) 932-2468

4 Attorneys for Defendant
5 TELECARE CORPORATION
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA

10 MICHELLE FRANCIS,

11 Plaintiff,

12 v.

13 TELECARE CORPORATION,
DOES 1 through 10,

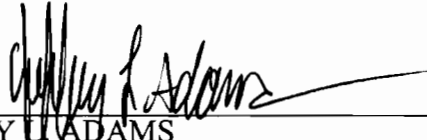
14 Defendants.
15

Case No. RG 08365014

**NOTICE TO STATE COURT OF
REMOVAL OF CIVIL ACTION TO
FEDERAL COURT**

16
17 PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
18 States District Court for the Northern District of California on May 14, 2008. A copy of the said
19 Notice of Removal is attached to this Notice, and is served and filed herewith.
20

21 Dated: May 14, 2008

22
23 
JEFFREY L. ADAMS
LITTLER MENDELSON, A Professional Corporation
24
25 ATTORNEYS FOR DEFENDANT,
TELECARE CORPORATION
26
27
28

PROOF OF SERVICE BY MAIL

I am employed in Contra Costa County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Treat Towers, 1255 Treat Boulevard, Suite 600, Walnut Creek, California 94597. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On **May 14, 2008**, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**NOTICE TO STATE COURT OF REMOVAL OF
CIVIL ACTION TO FEDERAL COURT**

in a sealed envelope, postage fully paid, addressed as follows:

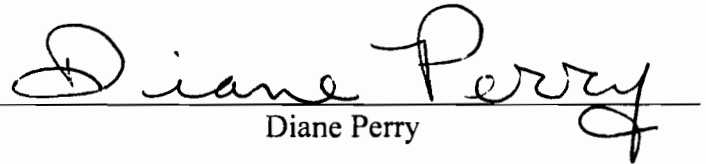
Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, CA 94612

(Attorney for Plaintiff)

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **May 14, 2008**, at Walnut Creek, California.


Diane Perry

Firmwide: 85212786.1 008313.1143

PROOF OF SERVICE BY MAIL

I am employed in Contra Costa County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Treat Towers, 1255 Treat Boulevard, Suite 600, Walnut Creek, California 94597. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On **May 14, 2008**, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**NOTICE OF REMOVAL OF CIVIL ACTION
UNDER 28 U.S.C. § 1441(b) (FEDERAL QUESTION)**

in a sealed envelope, postage fully paid, addressed as follows:

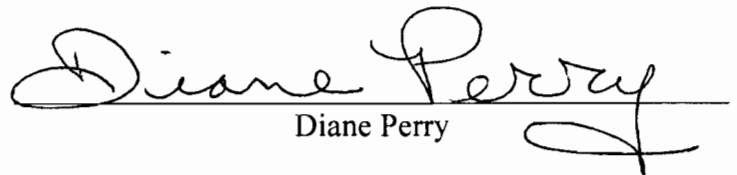
Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, CA 94612

(Attorney for Plaintiff)

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **May 14, 2008**, at Walnut Creek, California.


Diane Perry

Firmwide: 85212443.1 008313.1143